

## Regulatory Language

Section 120.7, Title 14, CCR, is amended to read:

### **§120.7. Taking of Sea Urchins for Commercial Purposes.**

#### **(a) Permit Required.**

(1) Any person taking or assisting in the taking of sea urchins for commercial purposes shall have obtained a valid sea urchin permit and shall be in possession of said permit when engaged in such activities. A sea urchin diving permit is not required to operate or assist in operating a vessel used to take sea urchins, however, no person without a valid sea urchin diving permit shall engage in diving from a vessel from which sea urchins are being taken or possessed for commercial purposes, unless authorized by the department's marine region regional manager or his or her designee for the purposes of sea urchin management or research.

(2) To provide an economic incentive for cooperative sea urchin management and research activity, and notwithstanding any other portion of this section, the department may authorize the holder of a valid sea urchin diving permit to harvest (take, possess, land and/or sell) red sea urchins during a closed season or in a closed area, subject to such restrictions regarding date(s), location(s), time(s), size, poundage or other matters as specified by the department. Any data collected during such harvest activity shall be made available to the department. The form of this authorization shall be a letter from the department's marine region regional manager or his or her designee issued to the permittee and containing all conditions of use.

#### **(b) Classes of Permits.**

(1) Sea Urchin Diving Permit. Sea urchin diving permits will be issued to licensed commercial fishermen 16 years of age or older who have qualified for permits pursuant to subsection (c).

(2) Sea Urchin Crewmember Permit. Sea urchin crewmember permits will be issued to licensed commercial fishermen 16 years of age or older who do not qualify for sea urchin diving permits.

#### **(c) ~~Prior Permittees:~~ Permit Renewal.**

(1) Applicants for renewal of sea urchin diving permits must have held a valid, unrevoked sea urchin diving permit in the immediately preceding permit year (April 1-March 31).

(2) In 2008, applications ~~Applications~~ for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than June 30. In 2009 and thereafter, applications for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than April 30. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. of each permit year. Each application must be accompanied by evidence that the qualification requirements specified in this subsection have been met. ~~Applications received by the department or, if mailed, postmarked after June 30 and before August 1 will be assessed a \$50 late fee. Applications received by the department or, if mailed, postmarked after July 31 will not be considered.~~

#### **(d) Number of Permits.**

(1) All qualified prior sea urchin diving permittees shall be eligible to receive diving permits regardless of the number issued.

(2) If the number of diving permits issued to prior permittees is more than 300, the total number of new sea urchin diving permits available for issuance shall be one-tenth the difference between the total number of sea urchin diving permits issued prior to August 1 of the current permit year and the total number of sea urchin permits issued during the immediately preceding permit year. If the number of diving permits issued to prior permittees is less than 300, the number of new sea urchin diving permits to be issued shall be the difference between the number of diving permits issued to prior permittees and 300. If the number of permits issued to prior permittees is 300, no new sea urchin diving permits shall be available.

(e) New Permittees:

(1) Applications for the issuance of any new sea urchin diving permits that may become available each year shall be received by the department or, if mailed, postmarked no later than June 30. Applications shall be submitted to the department's License and Revenue Branch, ~~3211 S Street, Sacramento, CA 95816~~ office in Sacramento. If any new sea urchin diving permits are available for issuance, as provided in subsection (d)(2), they shall be issued to licensed commercial fishermen who held, for each of the two immediately preceding permit years, a valid sea urchin crewmember permit.

(2) If there are more applicants for sea urchin diving permits than there are permits available, a drawing will be held to determine which applicants will be eligible to purchase permits. Any person who submits more than one application for a new sea urchin diving permit in any one permit year will be excluded from the drawing. Each applicant who meets the criteria in subsection (e)(1) shall be entered into the drawing once. In addition, each applicant shall be entered into the drawing one more time for each additional year, above the minimum required two years, that the applicant possessed a valid sea urchin crewmember permit. No applicant shall be entered more than five times for each drawing. The drawing will be held on the third Wednesday in August each year. Permits will be issued to successful applicants in the order drawn. Payment of the fee for the sea urchin diving permit must be received at the department's License and Revenue Branch, ~~3211 S Street, Sacramento, CA 95816~~ office in Sacramento on or before September 25.

(f) Fee. The fee for sea urchin crewmember permits shall be the amount authorized by Section 699 of these regulations.

(g) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Appeal. Any applicant who is denied a sea urchin diving permit for any reason may appeal the denial to the department in writing, describing the basis for the appeal. The appeal must be received by the department not later than March 31 following the permit year in which the appellant last held a valid sea urchin diving permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.~~

(h) Vessel Identification. When sea urchins are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least 10 inches high, and on a white background. All

permittees aboard the boat shall be mutually responsible for the proper display of the vessel's commercial registration number.

(i) Conditions of the Permit:

(1) No person shall take or possess lobsters or abalone aboard any boat used to take sea urchins under these regulations on any day that sea urchins have been taken or are to be taken.

(2) Hydraulic lifts and air lifts shall be used only in such a manner that no rocks or other mineral matter, aquatic plants, fish or other aquatic life except sea urchins, shall be removed from the bottom or otherwise disturbed.

(j) Revocation of Permits. Any permit may be suspended, revoked, or canceled by the commission upon breach or violation of any fish and game regulation pertaining to the take of sea urchins or abalone; or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

(k) Exemption from Tidal Invertebrate Permit. A sea urchin diver or sea urchin crewmember operating under the provisions of this section is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of section 123, Title 14, CCR.

(l) Fishing Season.

(1) ~~From November 1 through March 31~~ through May, the open season for red sea urchins is seven days per week.

(2) ~~In April, May, September and October~~ From June through October, the open season for red sea urchins is Monday, Tuesday, Wednesday and Thursday.

~~(3) In June and August the open season for red sea urchins is Monday, Tuesday, and Wednesday.~~

~~(4) In July the season for red sea urchins is Monday and Tuesday.~~

~~(5)~~ (3) During any closed period, no red sea urchins may be possessed on any commercially registered vessel, except that any commercially registered vessel may transport red sea urchins after any closure goes into effect, provided that the vessel is in port no later than 0800 hours on the first day of the closed period.

(m) Logbooks. ~~Any person who operates a vessel used for the commercial harvest of sea urchins shall prepare a daily record of the vessel's sea urchin fishing activities~~ Each permittee shall complete and submit an accurate record of all sea urchin fishing activities on a form (DFG-120.7 (5/99- 2/08)), incorporated herein by reference, provided by the department before the sea urchins are landed. The completed daily records shall be sent to the Fort Bragg office of the Department of Fish and Game for fishing activities north of the Monterey-San Luis Obispo county line, and to the Los Alamitos, office for fishing activities south of the Monterey-San Luis Obispo county line on or before the tenth day of each month following the month to which the records pertain.

(n) Closed Areas.

(1) Sea urchins shall not be taken for commercial purposes in state marine reserves or state marine parks. Specific regulations in state marine conservation areas may prohibit the commercial take of sea urchins as per subsection 632(b).

(2) The Gerstle Cove area in Salt Point State Marine Conservation Area (Sonoma County) is closed to all commercial fishing for sea urchins. This area is delimited as all

the ocean waters east of a line extending 180° true from the southernmost point of Salt Point (38°33.92'N. lat. 123° 19.89' W. long.) and north of a line extending 270° true from the westernmost point of land of the unnamed point at the southern end of Gerstle Cove (38°33.6'N. lat. 123° 19.37'W. long.).

(3) The South Caspar Point area in Mendocino County is closed to all commercial fishing for sea urchins. This area is bounded on the north by a line extending 90° magnetic from sea to the mouth of Caspar Creek (north bank) in Caspar Cove, on the south by the northern boundary of the Point Cabrillo State Marine Conservation Area and its westward extension to the 120-foot depth contour, on the west by 120-foot depth contour line connecting the north and south boundary lines, and on the East by the mainland shore. The Point Cabrillo State Marine Conservation Area remains closed to the take of all forms of marine life except as permitted in subsection 632(b).

(o) Size Limit.

(1) In southern California (south of the Monterey-San Luis Obispo county line) no red sea urchin between one and one-half (1 1/2) and three and one-quarter (3 1/4) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, may be taken, possessed, sold, or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.

(2) In northern California (north of the Monterey-San Luis Obispo county line) no red sea urchin between one and one-half (1 1/2) and three and one-half (3 1/2) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, may be taken, possessed, sold or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.

(3) Red sea urchins less than one and one-half (1 1/2) inches in shell diameter shall not be considered as part of the thirty (30) undersized red sea urchins per permittee per load that may be taken, possessed, sold or purchased.

(4) Every sea urchin permittee shall carry and use an accurate measuring device, to determine the size of red sea urchins being taken as specified in subsections (o)(1) and (o)(2) above, while diving for sea urchins for commercial purposes.

(p) Authorization of an Assistant for a Sea Urchin Diver Permittee.

(1) Authorization by Department. The holder of a sea urchin diving permit, who, after entering the sea urchin fishery, becomes, due to a severe unforeseen or catastrophic long-term (expected to be for one year or longer) or permanent injury or disease, physically unable to dive, may designate a specific individual as an assistant, upon written approval from the department. The department may authorize, in writing, any one specific individual to be designated by the permittee as an assistant, providing the following conditions have been met:

(A) the permittee provides documentation from a qualified physician that the permittee suffers from the disease or injury and it will prevent the permittee from diving. Such conditions shall not include short or long-term common illnesses, conditions caused or primarily exacerbated by aging, or any other condition which appears to be marginal or common, such as routine back or neck problems;

(B) the permittee has no violations or pending violations for which his or her permit could be revoked;

(C) the proposed assistant has a current California commercial fishing license and has not had any California commercial fishing license or permit suspended or revoked; has never been convicted, and no charges are pending for a violation of any provision of the Fish and Game Code or Title 14, California Code of Regulations.

(2) Special Provisions:

(A) The authorized sea urchin diver assistant may take or assist in the taking of sea urchin only when in the company of the permittee.

(B) The permittee shall have no authority to, and shall not dive for sea urchin while a valid letter authorizing the permittee to designate an assistant exists, regardless of whether or not the assistant is actively diving.

(C) The authorized sea urchin diver assistant shall have no right to ownership or transfer of the permit beyond that which is otherwise provided by law.

(D) The sea urchin diving permit, in addition to the sea urchin diver assistant authority shall be subject to revocation, suspension or other actions provided in law or regulation, upon violations committed by the assistant, when acting under the authority of a sea urchin diver assistant. The assistant shall take no actions authorized pursuant to a sea urchin diver permit without the consent of the permittee.

(E) The department shall review the authority authorized pursuant to this section at least once every year and may withdraw the authority if any of the conditions are not met.

(3) Fee Requirement. Any person authorized as an assistant pursuant to this subsection shall annually pay a fee to the department equal to the amount required of permittees pursuant to Fish and Game Code Section 9055.

(4) Required Possession of Department Authorization. The assistant shall carry the department's letter of authority whenever conducting activities authorized pursuant to the subsection.

(5) The department shall report to the commission within 18 months of the enactment of these provisions on the merits of the program. The department shall make a recommendation to the commission to either continue or discontinue the program, based on achievements and problems associated with the administration of these provisions.

NOTE:

Authority cited: Sections 1050, 9054 and 9055, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 7857, 9054 and 9055, Fish and Game Code.